

ORIGINAL

1 KAREN P. HEWITT
United States Attorney
2 PAUL L. STARITA
Assistant U.S. Attorney
3 California State Bar No. 219573
Federal Office Building
4 880 Front Street, Room 6293
San Diego, California 92101-8893
5 Telephone: (619) 557-6507
Facsimile: (619) 235-2757

6 Attorneys for Plaintiff
7 United States of America

8 UNITED STATES DISTRICT COURT
9 SOUTHERN DISTRICT OF CALIFORNIA

10 UNITED STATES OF AMERICA,)

11 Plaintiff,)

12 v.)

13 ARAEL GUZMAN-RODRIGUEZ (1),)

14 Defendant.)
15

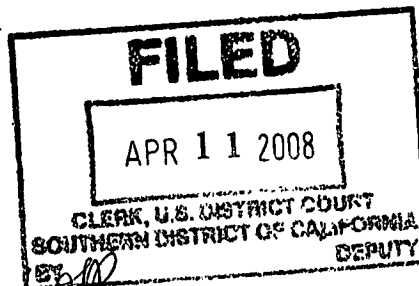
Criminal Case No. 08CR0640-IEG

STIPULATION AND JOINT MOTION
FOR RELEASE OF MATERIAL
WITNESSES

16 IT IS HEREBY STIPULATED AND AGREED between the Plaintiff, UNITED STATES
17 OF AMERICA, through its counsel, Karen P. Hewitt, United States Attorney, and Paul L. Starita,
18 Assistant U.S. Attorney, and Defendant ARAEL GUZMAN-RODRIGUEZ, defense counsel, Nancy
19 Rosenfeld, Esq., that:

20 1. Pursuant to a Plea Agreement, Defendant agrees to plead guilty to Count 2 of the
21 Indictment in Criminal Case No. 08CR0640-IEG charging Defendant with transportation of illegal
22 aliens in violation of 8 U.S.C. §§ 1324(a)(1)(A)(ii) and (v) (II).

23 2. There are three material witnesses in this case – (1) Jorge Arturo Melgoza-Rodriguez,
24 (2) Tomas Ignacio-Santiago, and (3) Victor Melgosa-Garcia – whose testimony is material if this
25 case proceeded to trial. As discussed further, the parties stipulate that the two material witnesses
26 would testify to facts relevant to the charges and such testimony would be admissible at trial as
27 statements against interest of an unavailable witness under Fed. R. Evid. 804(b)(3), and Defendant
28



1 agrees to waive any confrontation clause challenge under Crawford v. Washington, 524 U.S. 36
 2 (2004).

3 3. Material witness # 1, Jorge Arturo Melgoza-Rodriguez, in this case:

- 4 a. Is an alien with no legal right to enter or remain in the United States;
- 5 b. Is a citizen and national of Mexico and was born in Zamora, Michoacan,
6 Mexico;
- 7 c. Traveled from Michoacan, Mexico, to Tijuana, Mexico, and then crossed, on
8 foot, into the United States from Mexico in a mountainous area known as "El
9 Nido De Las Aguilas";
- 10 d. Defendant was the driver of the vehicle which was transporting him in the
11 Southern District of California;
- 12 e. Co-Defendant, Misael Garcia-Leon, guided him from Mexico into the United
13 States;
- 14 f. Was to pay \$2,000 to be smuggled to a destination within the United States,
15 namely Los Angeles, California; and
- 16 g. May be released to the United States Department of Homeland Security for
17 return to his country of origin.

18 4. Material witness # 2, Tomas Ignacio-Santiago, in this case:

- 19 a. Is an alien with no legal right to enter or remain in the United States;
- 20 b. Is a citizen and national of Mexico and was born in Magdalena Teitipac,
21 Oaxaca, Mexico;
- 22 c. Traveled from Oaxaca, Mexico, to Tijuana, Mexico, and then crossed, on
23 foot, into the United States from Mexico in a mountainous area known as "El
24 Nido De Las Aguilas";
- 25 d. Defendant was the driver of the vehicle which was transporting him in the
26 Southern District of California;
- 27 e. Co-Defendant, Misael Garcia-Leon, guided him from Mexico into the United
28 States;
- f. Was to pay \$2,500 to be smuggled to a destination within the United States,
namely Los Angeles, California; and
- g. May be released to the United States Department of Homeland Security for
return to his country of origin.

1 5. Material witness # 3, Victor Melgosa-Garcia, in this case:

- 2 a. Is an alien with no legal right to enter or remain in the United States;
- 3 b. Is a citizen and national of Mexico and was born in Zamora, Michoacan,
- 4 Mexico ;
- 5 c. Traveled from Michoacan, Mexico, to Tijuana, Mexico, and then crossed, on
- 6 foot, into the United States from Mexico in a mountainous area;
- 7 d. Defendant was the driver of the vehicle which was transporting him in the
- 8 Southern District of California;
- 9 e. Co-Defendant, Misael Garcia-Leon, guided him from Mexico into the United
- 10 States;
- 11 f. Was to pay \$1,000 to be smuggled to a destination within the United States,
- namely Los Angeles, California; and
- 12 g. May be released to the United States Department of Homeland Security for
- return to her country of origin.

13 6. After the material witnesses are ordered released by the Court pursuant to this

14 stipulation and joint motion, if the Defendant withdraws his guilty plea before the plea is accepted

15 by the District Court, the Defendant agrees that, in any proceeding including, but not limited to,

 motions hearings, trial, sentencing, appeal, or collateral attack, that:

- 16 a. The stipulated facts set forth above shall be admitted as substantive evidence;
- 17 b. The United States may elicit hearsay testimony from arresting agents
- 18 regarding any statements made by the material witnesses provided in
- 19 discovery, and such testimony shall be admitted as substantive evidence
- 20 under Fed. R. Evid. 804(b)(3) as statements against interest of an unavailable
- 21 witness; and
- 22 c. Understanding that, under Crawford v. Washington, 524 U.S. 36 (2004),
- 23 testimonial hearsay statements are not admissible against a defendant
- 24 unless the defendant confronted and cross examined the witness who made
- 25 the testimonial hearsay statements, Defendant waives the right to confront
- 26 and cross examine the material witnesses in this case.

1 Based on the foregoing, the parties jointly move the stipulation into evidence and move for
2 the immediate release of the above-named material witnesses for return to their respective country
3 of origin.

4 It is so STIPULATED AND AGREED.

5 Respectfully submitted,

6 KAREN P. HEWITT
7 United States Attorney

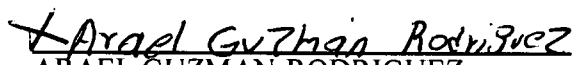
8 Dated: 4.7.08

9 
10 PAUL L. STARITA
11 Assistant U.S. Attorney

12 Dated: 4-7-08

13 
14 NANCY ROSENFELD
15 Defense Counsel

16 Dated: 4-7-08

17 
18 ARAEL GUZMAN-RODRIGUEZ
19 Defendant
20
21
22
23
24
25
26
27
28